

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

STACIA LEIGH DANIELS,

Plaintiff,

v.

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

Case No. 2:20-cv-1209-RSM

ORDER GRANTING PLAINTIFF'S
MOTION FOR ATTORNEY FEES
PURSUANT TO 42 U.S.C. § 406(b)

This matter comes before the Court on Plaintiff's Motion for Attorney Fees under 42 U.S.C. § 406(b). Dkt. #32. Plaintiff seeks fees in the amount of \$20,683.50. Upon receipt of this sum, counsel for Plaintiff will refund the previously awarded Equal Access to Justice Act ("EAJA") fees of \$7,334.63 directly to the Plaintiff. *Id.* Defendant neither supports nor opposes counsel's request. Dkt. #34.

Attorney's fees may be awarded to a successful social security claimant's lawyer for his or her representation before a court pursuant to 42 U.S.C. §§ 406(b). *Straw v. Bowen*, 866 F.2d 1167 (9th Cir.1989). Plaintiff must apply to the Social Security Administration for an award of fees for representation at the administrative level. 42 U.S.C. § 406(a); *Stenswick v. Bowen*, 815 F.2d 519 (9th Cir.1987). Under 42 U.S.C. § 406(b), the Court may allow a reasonable fee for an attorney who represented a Social Security Title II claimant before the Court and obtained a

1 favorable judgment, as long as such fee is not in excess of 25% of the total past-due benefits. *See*
2 *Grisbrecht v. Barnhart*, 535 U.S. 789 (2002).

3 Fee awards may be made under both the EAJA and § 406(b), but the claimant's attorney
4 must refund to the claimant the amount of the smaller fee. *See Gisbrecht v. Barnhart*, 535 U.S.
5 789, 796 (2002).

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7 The Court concludes the request is reasonable within the meaning of § 406(b).
8 Accordingly, having reviewed Plaintiff's Motion, the Commissioner's Response, the exhibits
9 and declarations attached thereto, and the remainder of the record, the Court ORDERS as follows:
10 Plaintiff's Motion for Attorney Fees Pursuant to 42 U.S.C § 406(b), Dkt. #32, is GRANTED.
11 \$20,683.50, which represents twenty-five percent (25%) of the past due benefits awarded to the
12 Plaintiff, are to be remitted to the Law Offices of Charles E. Binder and Harry J. Binder, LLP.
13 Upon receipt of this sum, counsel for Plaintiff is directed to refund the previously awarded Equal
14 Access to Justice Act fees of \$7,334.63 directly to the Plaintiff.
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16 DATED this 2nd day of January, 2025.

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20 RICARDO S. MARTINEZ
21 UNITED STATES DISTRICT JUDGE
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